

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

EASTMAN KODAK COMPANY,

Plaintiff,

ORDER

11-CV-6513L

v.

COLLINS INK CORPORATION,

Defendant.

Counsel for the parties have communicated with the Court, by letter, relative to scheduling of further proceedings. I have Mr. Aten's letter of December 7, 2011 and Mr. Covatta's rejoinder of December 8, 2011. The Court also discussed with Magistrate Judge Marian W. Payson the parties' appearance before her at a Rule 16 Scheduling Conference. Although invited by Mr. Covatta to conduct a conference with counsel, I decline the invitation.


At this point, I see no need or basis to "expedite" any trial on the matter for several reasons. First of all, the defendant has elected to appeal my Decision, entered November 4, 2011, and I understand that briefing has proceeded on an expedited schedule set by the Second Circuit. It appears, therefore, that that Court will weigh in relatively soon on the core issues raised by the parties.

In addition, the parties apparently wish to engage in some discovery. In light of the issues raised before me, I was not of a mind that much discovery was necessary, but I leave that for your entreaties to Magistrate Judge Payson. In addition, it looks like the relationship between the parties is moribund, defendant having apparently given the requisite notice of termination which, according

to Mr. Aten's letter, would become effective on May 2, 2012. Also, as far as I know, Kodak continues to order and pay for product from the defendant.

All the above suggests that although this Court certainly retains jurisdiction in spite of the appeal, there is no good reason to shoehorn a trial on the matter prior to the completion of discovery and, prior to the Second Circuit's decision on the appeal.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
December 8, 2011.